

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION

MARIA AGUILAR
and ZORAIDA AGUILAR,
Plaintiffs,

v.

UNITED STATES OF AMERICA,
Defendant.

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Civil Action No. 2:19-CV-00058

PLAINTIFFS' ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME MARIA AGUILAR and ZORAIDA AGUILAR, hereinafter referred to collectively as "Plaintiffs", complaining of and about the UNITED STATES OF AMERICA, hereinafter referred to as "Defendant", and for cause of action would respectfully show onto the Court as follows:

A. Parties

1. Plaintiff, MARIA AGUILAR, an individual, is a resident of San Antonio, Bexar County, Texas.

2. Plaintiff, ZORAIDA AGUILAR, an individual, is a resident of Eagle Pass, Maverick County, Texas.

3. Defendant, UNITED STATES OF AMERICA, may be served with process by sending a certified copy of the summons and of this complaint by certified mail to each of the following individuals:

- Mr. John F. Bash, United States Attorney for the Western District of Texas, 601 NW Loop 410, Suite 600, San Antonio, Texas 78216;

- Ms. Stephanie Rico, Civil Process Clerk, Office of the United States Attorney for the Western District of Texas, 601 NW Loop 410, Suite 600, San Antonio, Texas 78216; **and**
- Mr. William Barr, Attorney General of the United States, Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

SERVICE OF PROCESS ON THESE INDIVIDUALS IS REQUESTED AT THIS TIME.

B. Jurisdiction

4. The Court has jurisdiction over the lawsuit under 28 U.S.C. § 1346(b) because the suit involves a claim against the United States for property damage and personal injury caused by the negligent act of a government employee while acting within the scope of his employment.

C. Venue

5. Venue is proper in this district under 28 U.S.C. § 1402(b) because the acts or omissions complained of occurred in this district.

D. Conditions Precedent

6. Plaintiffs timely presented there claims in writing to the UNITED STATES OF AMERICA through United States Customs and Border Protection (“USCBP”).

E. Facts

7. On June 18, 2018, Plaintiffs suffered personal injuries and property damage when they were involved in a collision with a motor vehicle owned by USCBP and driven by USCBP’s employee, RENE GONZALEZ.

8. On the date in question, Plaintiffs were traveling on El Indio Highway in Eagle Pass, Maverick County, Texas when RENE GONZALEZ entered the roadway from a private driveway and struck Plaintiffs’ vehicle.

9. At all times relevant hereto, RENE GONZALEZ was acting in the course and scope of his employment with USCBP.

F. Federal Tort Claims Act

10. RENE GONZALEZ was negligent at the time of the collision. RENE GONZALEZ was an employee of Defendant and was acting in the course and scope of his office or employment at the time of the collision made the basis of this lawsuit. RENE GONZALEZ had a duty to exercise ordinary care and operate the motor-driven equipment he was driving reasonably and prudently. RENE GONZALEZ breached this duty in the following ways:

- a. Failing to maintain a proper lookout.
- b. Failing to turn the vehicle he was operating.
- c. Failing to yield the right of way.

11. Under the laws of the State of Texas, a private person would be liable to Plaintiffs for this act. Under 28 U.S.C. § 2674, the UNITED STATES OF AMERICA is liable to Plaintiffs for their damages resulting from the damage to property and personal injuries.

G. Damages

12. As a direct and proximate result of Defendant's negligence, Plaintiffs have suffered the following injuries and damages:

- a. Physical pain and mental anguish in the past and future.
- b. Physical impairment in the past and future.
- c. Mental anguish in the past and future.
- d. Reasonable medical expenses in the past and future.
- e. Loss of future earnings and future earning capacity.
- f. Loss of household services in the past and future.
- g. Property damage.

H. Prayer

13. For these reasons, Plaintiffs ask that Defendant UNITED STATES OF AMERICA be cited to appear and that after trial, the Court award Plaintiffs judgment against Defendant for the following:

- a. Actual damages.
- b. Prejudgment and postjudgment interest.
- c. Costs of suit.
- d. All other relief, in law or equity, the Court deems appropriate.

Respectfully submitted,

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and

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